

State of California



Fair Political Practices Commission

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(916) 322-5662		322-5660		322-5901		322-6441		322-6444

November 30, 1984

Councilmember Henry B. Smith
City of Imperial Beach
825 Imperial Beach Boulevard
Imperial Beach, CA 92032

Re: Advice Letter No. A-84-295

Dear Mr. Smith:

This letter is sent to confirm our telephone conversation. I previously advised you in a letter to Clifton E. Reed, City Attorney of Imperial Beach, that you should not participate in the City Council's decisions on the Seacoast District Specific Plan because of your ownership of a second deed of trust on real property located with the Seacoast District at 142 Daisy Avenue. Advice Letter A-84-226. You informed me in our conversation that you sold the second deed of trust to an individual who has no other financial interests in Imperial Beach, and you asked me whether you must still refrain from participating in Council decisions on the Specific Plan.

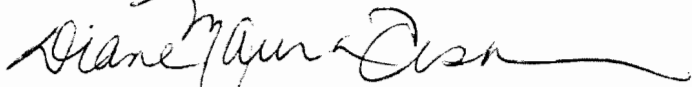
I advised you that, since you no longer had an interest in real property within the meaning of Government Code Section 87103(b), ^{1/} the only possible basis for disqualification would be the fact that the present holder of the deed of trust is now a source of income to you. If the City decisions on the Specific Plan could significantly and directly affect the value of the deed of trust, then you would have a financial interest under Section 87103 requiring disqualification. However, absent very unusual circumstances, it seems clear that the decisions on the Specific Plan, while they may affect the value of the underlying property, will not affect the value of the deed of trust. Accordingly, you may participate in the City Council decisions on the Specific Plan.

^{1/} All statutory references are to the Government Code unless otherwise specified.

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If I can be of further assistance, please feel free to
contact me at (916) 322-5901.

Sincerely,

A handwritten signature in cursive script, reading "Diane Maura Fishburn". The signature is written in dark ink and is positioned above the printed name.

Diane Maura Fishburn
Staff Counsel
Legal Division

DMF:plh
cc: Clifton E. Reed